

ESTTA Tracking number: **ESTTA310303**

Filing date: **10/07/2009**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

Name	The Chamberlain Group, Inc.
Granted to Date of previous extension	10/07/2009
Address	845 Larch Avenue Elmhurst, IL 60126-1196 UNITED STATES
Attorney information	Joseph T. Nabor Fitch Even Tabin & Flannery 120 South LaSalle Street, Suite 1600 Chicago, IL 60603 UNITED STATES trademark@fitcheven.com Phone:3125777000

Applicant Information

Application No	77667583	Publication date	06/09/2009
Opposition Filing Date	10/07/2009	Opposition Period Ends	10/07/2009
Applicant	ILINKX 3848 E. Lookout Dr. Coeur d'Alene, ID 83815 UNITED STATES		

Goods/Services Affected by Opposition


Class 009. All goods and services in the class are opposed, namely: Software for providing building automation monitoring
Class 045. First Use: 2008/03/06 First Use In Commerce: 2008/03/06 All goods and services in the class are opposed, namely: Building automation monitoring services; Building fire monitoring services


Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
Dilution	Trademark Act section 43(c)


Marks Cited by Opposer as Basis for Opposition


U.S. Registration No.	2427201	Application Date	03/24/1997
Registration Date	02/06/2001	Foreign Priority	NONE

		Date	
Word Mark	LINK		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 009. First use: First Use: 1998/01/00 First Use In Commerce: 1998/01/00 electric gate operators, control gates, garage door openers and commercial door openers		

U.S. Application No.	77718761	Application Date	04/21/2009
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	ILINK		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 009. First use: Power Controllers; Remote controls for doors or gates; Electronic security devices, namely, electronic controls for granting access and egress through doors or gates; Radio receiver units, radio transmitter units, keypads and card readers; Access control and alarm monitoring systems; Facilities management software, namely, software to control building environment, access and security systems; Home, office and industrial automation systems comprising wireless and wired controllers, controlled devices, and software for lighting, HVAC, security, safety and other home, office and industrial monitoring and control applications; Telephones; Intercoms; Motion sensitive security lights		

U.S. Application No.	77718776	Application Date	04/21/2009
Registration Date	NONE	Foreign Priority Date	NONE

Word Mark	CHAMBERLAIN ILINK
Design Mark	
Description of Mark	NONE
Goods/Services	<p>Class 009. First use:</p> <p>Power Controllers; Remote controls for doors or gates; Electronic security devices, namely, electronic controls for granting access and egress through doors or gates; Radio receiver units, radio transmitter units, keypads and card readers; Access control and alarm monitoring systems; Facilities management software, namely, software to control building environment, access and security systems; Home, office and industrial automation systems comprising wireless and wired controllers, controlled devices, and software for lighting, HVAC, security, safety and other home, office and industrial monitoring and control applications; Telephones; Intercoms; Motion sensitive security lights</p>

U.S. Application No.	77718792	Application Date	04/21/2009
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	LIFTMASTER ILINK		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 009. First use: Power Controllers; Remote controls for doors or gates; Electronic security devices, namely, electronic controls for granting access and egress through doors or gates; Radio receiver units, radio transmitter units, keypads and card readers; Access control and alarm monitoring systems; Facilities management software, namely, software to control building environment, access and security systems; Home, office and industrial automation systems comprising wireless and wired controllers, controlled devices, and software for lighting, HVAC, security, safety and other home, office and industrial monitoring and control applications; Telephones; Intercoms; Motion sensitive security lights		

Attachments	75263066#TMSN.gif (1 page)(bytes) 77718761#TMSN.jpeg (1 page)(bytes) 77718776#TMSN.jpeg (1 page)(bytes) 77718792#TMSN.jpeg (1 page)(bytes) Notice of Opposition against ILINKX_1.PDF (22 pages)(846033 bytes)
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/Joseph T. Nabor/
Name	Joseph T. Nabor
Date	10/07/2009

2. Since at least as early as January 1998, Chamberlain adopted and began using the mark LINK for use on a wide array of security goods and services including but not limited to

electric gate operators, control gates, garage door openers and commercial door openers which are and have been marketed in commerce throughout the United States.

3. On February 6, 2001, the United States Patent & Trademark Office registered on the Principal Register and issued Registration No. 2,427,201 for the mark LINK for use on "electric gate operators, control gates, garage door openers and commercial door openers." (Attached hereto as Exhibit A). Said Registration is presently valid and subsisting and is now owned by Chamberlain and is prima facie evidence of Chamberlain's exclusive right to use said mark in commerce on the goods. Said Registration is also incontestable under 15 U.S.C. 1065.

4. Chamberlain also has three pending intent-to-use trademarks which it filed with the USPTO on April 21, 2009 for the marks ILINK, Ser. No. 77/718,761, CHAMBERLAIN ILINK, Ser. No. 77/718,776 and LIFTMASTER ILINK, Ser. No. 77/718,792 for "Power Controllers; Remote controls for doors or gates; Electronic security devices, namely, electronic controls for granting access and egress through doors or gates; Radio receiver units, radio transmitter units, keypads and card readers; Access control and alarm monitoring systems; Facilities management software, namely, software to control building environment, access and security systems; Home, office and industrial automation systems comprising wireless and wired controllers, controlled devices, and software for lighting, HVAC, security, safety and other home, office and industrial monitoring and control applications; Telephones; Intercoms; Motion sensitive security lights" (attached hereto as Exhibit B).

5. ILINKX has filed extensions of time to oppose registration of the marks CHAMBERLAIN ILINK and LIFTMASTER ILINK.

6. The applications Serial No. 77/718,761 to register the mark ILINK has been suspended by the Trademark Examining Attorney on the basis that it may present a likelihood of confusion with the subject mark of ILINKX.

7. Long prior to Applicant's intended adoption of the mark ILINKX BECAUSE LIFE CAN CHANGE IN THE BLINK OF AN I & Design for the services specified in the subject application, Chamberlain was actively engaged in interstate and foreign commerce in the business of manufacturing, distributing, advertising and selling the aforementioned gate operators, garage door openers, commercial door openers and related security products bearing the LINK mark.

8. Chamberlain has expended substantial amounts in advertising and promoting its products, and has sold hundreds of thousands of dollars of products bearing the LINK mark in the United States and throughout the world.

9. On information and belief, Applicant has intended to adopt the mark ILINKX BECAUSE LIFE CAN CHANGE IN THE BLINK OF AN I & Design for the services specified in the subsection application with full knowledge of Chamberlain's famous LINK mark. Applicant has intended to use the trademark for those services without the consent of Chamberlain with the intent to trade and capitalize on the goodwill generated by Chamberlain's extensive and exclusive use of its LINK mark.

10. Applicant's intended adoption, use, distribution, offer for sale, and sale of services in connection with the ILINKX BECAUSE LIFE CAN CHANGE IN THE BLINK OF AN I & Design mark for the services specified in the subject application is likely to cause confusion, mistake or deception as to the origin of the services among the relevant consuming public. The public is likely to believe that Applicant's services originate with Chamberlain, are licensed by Chamberlain, or are sponsored, authorized, endorsed, or are otherwise related to Chamberlain.

11. On information and belief, the Applicant has not used the mark ILINKX BECAUSE LIFE CAN CHANGE IN THE BLINK OF AN I & Design on "Software for providing building automation monitoring."

12. On information and belief, the earliest date of actual or constructive use for the services specified in the subject application upon which the Applicant can rely is February 10, 2009, the filing date of Application Serial No. 77/667,583 except that Applicant alleges that it has used the subject mark since March 6, 2008 in connection with "building automation monitoring services; Building fire monitoring services."

13. The services for which Applicant seeks registration of the mark ILINKX BECAUSE LIFE CAN CHANGE IN THE BLINK OF AN I & Design are similar or related to the goods which Chamberlain distributes bearing the LINK mark.

14. On information and belief the services for which Applicant seeks registration of the ILINKX BECAUSE LIFE CAN CHANGE IN THE BLINK OF AN I & Design mark is likely to be sold to the same customers or channels of trade to which Chamberlain sells its goods bearing the LINK mark.

15. Applicant's trademark as applied to the services specified in the subject application is confusingly similar to Chamberlain's LINK mark, and use thereof is likely to cause confusion, mistake or deception that Applicant's services are those of Chamberlain's, or are otherwise endorsed, sponsored or approved by Chamberlain.

COUNT II - FEDERAL TRADEMARK DILUTION

16. Paragraphs 1-15 are incorporated by reference herein.

17. Chamberlain has expended substantial monies in marketing, advertising and promoting its LINK mark on its goods.

18. Chamberlain possesses extremely valuable goodwill in the LINK mark by reason of its extensive use, marketing, publicity, advertising and geographic extent of its use and promotion. This goodwill was established long prior to the filing of Application Serial No. 77/667,583.

19. Chamberlain has sold goods bearing the LINK mark in excess of hundreds of thousands of dollars.

20. The LINK mark is famous and distinctive within the meaning of the Lanham Act, and are entitled to the protection of the anti-dilution provisions of the Lanham Act, including 15 U.S.C. § 1125(c).

21. Applicant filed the Application after the LINK mark became famous and distinctive.

22. Chamberlain has expended substantial monies in marketing, advertising and promoting the LINK mark.

23. If Applicant is granted registration of its ILINKX BECAUSE LIFE CAN CHANGE IN THE BLINK OF AN I & Design trademark, Applicant will obtain the *prima facie* exclusive right to use such mark in connection with the services specified in the subject application, and such registration will impair, diminish, and dilute Chamberlain's goodwill and rights in its LINK mark. Therefore, Chamberlain opposes registration of Applicant's ILINKX BECAUSE LIFE CAN CHANGE IN THE BLINK OF AN I & Design trademark for the services specified in the subject application pursuant to 15 U.S.C. § 1052 and 1063(a), as amended by the Trademark Amendment Act of 1999, which permits opposition of trademark applications filed on or after January 16, 1996 on grounds of dilution.

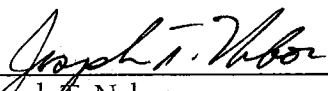
Therefore, Chamberlain opposes registration of Applicant's mark ILINKX BECAUSE LIFE CAN CHANGE IN THE BLINK OF AN I & Design pursuant to 15 U.S.C. § 1052 and 1063(a), as amended by the Trademark Amendment Act of 1999, which permits opposition of trademark applications filed on or after January 16, 1996 on grounds of dilution.

PRAYER FOR RELIEF

WHEREFORE, Chamberlain prays that Application Serial No. 77/667,583 be rejected, and that registration of the mark ILINKX BECAUSE LIFE CAN CHANGE IN THE BLINK OF AN I & Design for the services specified therein be refused.

Respectfully submitted,

October 7, 2009



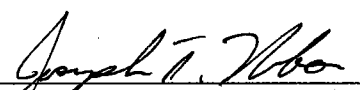
Joseph T. Nabor
FITCH, EVEN, TABIN & FLANNERY
120 South LaSalle, Suite 1600
Chicago, IL 60603-3406
Telephone: 312.577.7000
Facsimile: 312.577.7007

Attorney for Opposer

CERTIFICATE OF OPPOSER'S ATTORNEYS

We hereby certify that we are trademark attorneys for The Chamberlain Group, Inc., the Opposer herein, and that we have been instructed to file the foregoing Opposition. We are, therefore, filing this Opposition under Section 13 of the Trademark Act of 1946 and under Trademark Rule 2.101.

October 7, 2009



Joseph T. Nabor
FITCH, EVEN, TABIN & FLANNERY
120 South LaSalle, Suite 1600
Chicago, IL 60603-3406
Telephone: 312.577.7000
Facsimile: 312.577.7007

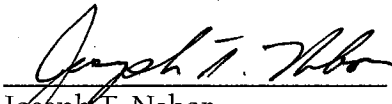
Attorney for Opposer

CERTIFICATE OF SERVICE

I, Joseph T. Nabor , Attorney for the Applicant, hereby certify that a copy of the foregoing
NOTICE OF OPPOSITION was served by first class mail, postage prepaid, upon:

JIM RUTTLE
RUTTLE IP LAW PLLC
600 UNIVERSITY ST STE 1919
SEATTLE, WA 98101-1129
Attorney of Record

On this 7th day of October, 2009.



Joseph T. Nabor
FITCH, EVEN, TABIN & FLANNERY
120 South LaSalle, Suite 1600
Chicago, IL 60603-3406
Telephone: 312.577.7000
Facsimile: 312.577.7007

Attorneys for Opposer

EXHIBIT A

Thank you for your request. Here are the latest results from the TARR web server.

This page was generated by the TARR system on 2009-10-07 10:00:57 ET

Serial Number: 75263066 Assignment Information Trademark Document Retrieval

Registration Number: 2427201

Mark (words only): LINK

Standard Character claim: No

Current Status: Section 8 and 15 affidavits have been accepted and acknowledged.

Date of Status: 2007-08-29

Filing Date: 1997-03-24

Transformed into a National Application: No

Registration Date: 2001-02-06

Register: Principal

Law Office Assigned: LAW OFFICE 106

If you are the applicant or applicant's attorney and have questions about this file, please contact the Trademark Assistance Center at TrademarkAssistanceCenter@uspto.gov

Current Location: 830 -Post Registration

Date In Location: 2007-08-29

LAST APPLICANT(S)/OWNER(S) OF RECORD

1. Chamberlain Group, Inc., The

Address:

Chamberlain Group, Inc., The
845 Larch Avenue
Elmhurst, IL 601261196
United States

Legal Entity Type: Corporation

State or Country of Incorporation: Connecticut

GOODS AND/OR SERVICES

International Class: 009

Class Status: Active

electric gate operators, control gates, garage door openers and commercial door openers

Basis: 1(a)

First Use Date: 1998-01-00

First Use in Commerce Date: 1998-01-00

ADDITIONAL INFORMATION

(NOT AVAILABLE)

MADRID PROTOCOL INFORMATION

(NOT AVAILABLE)

PROSECUTION HISTORY

NOTE: To view any document referenced below, click on the link to "Trademark Document Retrieval" shown near the top of this page.

2007-08-29 - Section 8 (6-year) accepted & Section 15 acknowledged

2007-08-23 - Assigned To Paralegal

2007-08-03 - Section 8 (6-year) and Section 15 Filed

2007-08-03 - TEAS Section 8 & 15 Received

2006-12-01 - Case File In TICSRS

2001-02-06 - Registered - Principal Register

2000-11-21 - Allowed for Registration - Principal Register (SOU accepted)

2000-11-20 - Assigned To Examiner

2000-10-19 - Statement of use processing complete

2000-08-17 - Amendment to Use filed

2000-04-19 - Extension 1 granted

2000-02-17 - Extension 1 filed

1999-08-17 - Noa Mailed - SOU Required From Applicant

1998-11-03 - Extension Of Time To Oppose Received

1998-10-06 - Published for opposition
1998-09-04 - Notice of publication
1998-07-28 - Approved for Pub - Principal Register (Initial exam)
1998-05-07 - Communication received from applicant
1997-11-03 - Non-final action mailed
1997-10-20 - Assigned To Examiner
1997-10-07 - Assigned To Examiner

ATTORNEY/CORRESPONDENT INFORMATION

Attorney of Record

Joseph T. Nabor

Correspondent

Joseph T. Nabor

FITCH EVEN TABIN & FLANNERY

Suite 1600

120 S LaSalle Street

CHICAGO IL 60603

Phone Number: 312 577-7000

Fax Number: 312 577-7007

EXHIBIT B

Thank you for your request. Here are the latest results from the TARR web server.

This page was generated by the TARR system on 2009-10-07 10:29:20 ET

Serial Number: 77718761 Assignment Information Trademark Document Retrieval

Registration Number: (NOT AVAILABLE)

Mark

ILINK

(words only): ILINK

Standard Character claim: Yes

Current Status: An office action suspending further action on the application has been mailed.

Date of Status: 2009-07-13

Filing Date: 2009-04-21

Transformed into a National Application: No

Registration Date: (DATE NOT AVAILABLE)

Register: Principal

Law Office Assigned: LAW OFFICE 105

Attorney Assigned:
MANDIR FREDERICK M

Current Location: L5X -TMEG Law Office 105 - Examining Attorney Assigned

Date In Location: 2009-07-13

LAST APPLICANT(S)/OWNER(S) OF RECORD

1. The Chamberlain Group, Inc.

Address:
The Chamberlain Group, Inc.

845 Larch Avenue
Elmhurst, IL 601261196
United States
Legal Entity Type: Corporation
State or Country of Incorporation: Connecticut

GOODS AND/OR SERVICES

International Class: 009

Class Status: Active

Power Controllers; Remote controls for doors or gates; Electronic security devices, namely, electronic controls for granting access and egress through doors or gates; Radio receiver units, radio transmitter units, keypads and card readers; Access control and alarm monitoring systems; Facilities management software, namely, software to control building environment, access and security systems; Home, office and industrial automation systems comprising wireless and wired controllers, controlled devices, and software for lighting, HVAC, security, safety and other home, office and industrial monitoring and control applications; Telephones; Intercoms; Motion sensitive security lights

Basis: 1(b)

First Use Date: (DATE NOT AVAILABLE)

First Use in Commerce Date: (DATE NOT AVAILABLE)

ADDITIONAL INFORMATION

Prior Registration Number(s):

2427201

MADRID PROTOCOL INFORMATION

(NOT AVAILABLE)

PROSECUTION HISTORY

NOTE: To view any document referenced below, click on the link to "Trademark Document Retrieval" shown near the top of this page.

2009-07-13 - Notification Of Letter Of Suspension E-Mailed

2009-07-13 - Letter of suspension e-mailed

2009-07-13 - Suspension Letter Written

2009-07-10 - Assigned To Examiner

2009-04-25 - Notice Of Pseudo Mark Mailed

2009-04-24 - New Application Office Supplied Data Entered In Tram

2009-04-24 - New Application Entered In Tram

ATTORNEY/CORRESPONDENT INFORMATION

Attorney of Record

Joseph T. Nabor

Correspondent

JOSEPH T. NABOR

FITCH, EVEN, TABIN & FLANNERY

120 S LASALLE ST STE 1600

CHICAGO, IL 60603-3590

Phone Number: 312 577-7000

Fax Number: 312 577-7007

Thank you for your request. Here are the latest results from the TARR web server.

This page was generated by the TARR system on 2009-10-07 10:29:10 ET

Serial Number: 77718776 Assignment Information Trademark Document Retrieval

Registration Number: (NOT AVAILABLE)

Mark

CHAMBERLAIN ILINK

(words only): CHAMBERLAIN ILINK

Standard Character claim: Yes

Current Status: A request for an extension of time to file an opposition has been filed at the Trademark Trial and Appeal Board.

Date of Status: 2009-08-31

Filing Date: 2009-04-21

Transformed into a National Application: No

Registration Date: (DATE NOT AVAILABLE)

Register: Principal

Law Office Assigned: LAW OFFICE 105

Attorney Assigned:
MANDIR FREDERICK M

Current Location: 650 -Publication And Issue Section

Date In Location: 2009-07-20

LAST APPLICANT(S)/OWNER(S) OF RECORD

1. The Chamberlain Group, Inc.

Address:

The Chamberlain Group, Inc.
845 Larch Avenue
Elmhurst, IL 601261196
United States
Legal Entity Type: Corporation
State or Country of Incorporation: Connecticut

GOODS AND/OR SERVICES

International Class: 009

Class Status: Active

Power Controllers; Remote controls for doors or gates; Electronic security devices, namely, electronic controls for granting access and egress through doors or gates; Radio receiver units, radio transmitter units, keypads and card readers; Access control and alarm monitoring systems; Facilities management software, namely, software to control building environment, access and security systems; Home, office and industrial automation systems comprising wireless and wired controllers, controlled devices, and software for lighting, HVAC, security, safety and other home, office and industrial monitoring and control applications; Telephones; Intercoms; Motion sensitive security lights

Basis: 1(b)

First Use Date: (DATE NOT AVAILABLE)

First Use in Commerce Date: (DATE NOT AVAILABLE)

ADDITIONAL INFORMATION

Prior Registration Number(s):

1619406

2709642

2721677

MADRID PROTOCOL INFORMATION

(NOT AVAILABLE)

PROSECUTION HISTORY

NOTE: To view any document referenced below, click on the link to "Trademark Document Retrieval" shown near the top of this page.

2009-08-31 - Extension Of Time To Oppose Received

2009-08-25 - Published for opposition

2009-08-05 - Notice of publication

2009-07-20 - Law Office Publication Review Completed

2009-07-20 - Assigned To LIE

2009-07-10 - Approved for Pub - Principal Register (Initial exam)

2009-07-10 - Assigned To Examiner

2009-04-25 - Notice Of Pseudo Mark Mailed

2009-04-24 - New Application Office Supplied Data Entered In Tram

2009-04-24 - New Application Entered In Tram

ATTORNEY/CORRESPONDENT INFORMATION

Attorney of Record

Joseph T. Nabor

Correspondent

JOSEPH T. NABOR

FITCH, EVEN, TABIN & FLANNERY

120 S LASALLE ST STE 1600

CHICAGO, IL 60603-3590

Phone Number: 312 577-7000

Fax Number: 312 577-7007

Thank you for your request. Here are the latest results from the TARR web server.

This page was generated by the TARR system on 2009-10-07 10:28:56 ET

Serial Number: 77718792 Assignment Information

Trademark Document Retrieval

Registration Number: (NOT AVAILABLE)

Mark

LIFTMASTER ILINK

(words only): LIFTMASTER ILINK

Standard Character claim: Yes

Current Status: A request for an extension of time to file an opposition has been filed at the Trademark Trial and Appeal Board.

Date of Status: 2009-08-31

Filing Date: 2009-04-21

Transformed into a National Application: No

Registration Date: (DATE NOT AVAILABLE)

Register: Principal

Law Office Assigned: LAW OFFICE 105

Attorney Assigned:
MANDIR FREDERICK M

Current Location: 650 -Publication And Issue Section

Date In Location: 2009-07-20

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GOODS AND/OR SERVICES

International Class: 009

Class Status: Active

Power Controllers; Remote controls for doors or gates; Electronic security devices, namely, electronic controls for granting access and egress through doors or gates; Radio receiver units, radio transmitter units, keypads and card readers; Access control and alarm monitoring systems; Facilities management software, namely, software to control building environment, access and security systems; Home, office and industrial automation systems comprising wireless and wired controllers, controlled devices, and software for lighting, HVAC, security, safety and other home, office and industrial monitoring and control applications; Telephones; Intercoms; Motion sensitive security lights

Basis: 1(b)

First Use Date: (DATE NOT AVAILABLE)

First Use in Commerce Date: (DATE NOT AVAILABLE)

ADDITIONAL INFORMATION

Prior Registration Number(s):

863447

2724638

MADRID PROTOCOL INFORMATION

(NOT AVAILABLE)

PROSECUTION HISTORY

NOTE: To view any document referenced below, click on the link to "Trademark Document Retrieval" shown near the top of this page.

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2009-08-25 - Published for opposition

2009-08-05 - Notice of publication

2009-07-20 - Law Office Publication Review Completed

2009-07-20 - Assigned To LIE

2009-07-10 - Approved for Pub - Principal Register (Initial exam)

2009-07-10 - Assigned To Examiner

2009-04-25 - Notice Of Pseudo Mark Mailed

2009-04-24 - New Application Office Supplied Data Entered In Tram

2009-04-24 - New Application Entered In Tram

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JOSEPH T. NABOR

FITCH, EVEN, TABIN & FLANNERY

120 S LASALLE ST STE 1600

CHICAGO, IL 60603-3590

Phone Number: 312 577-7000

Fax Number: 312 577-7007
